



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/878,707	06/11/2001	Patrick G. Ryan	19042/00101	3980
26116 7590 SIDLEY AUSTIN LLP 717 NORTH HARWOOD SUITE 3400 DALLAS, TX 75201			EXAMINER JARRETT, SCOTT L	
			ART UNIT 3623	PAPER NUMBER
			MAIL DATE 06/22/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/878,707	<b>Applicant(s)</b> RYAN ET AL.	
	<b>Examiner</b> Scott L. Jarrett	<b>Art Unit</b> 3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:  
         1. ☐ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This **Final** Office Action is in response to Applicant's response to Applicant's amendment filed April 9, 2007. Applicant's amendment amended the Abstract, canceled claims 20-33 and amended Claims 1-19. Currently Claims 1-19 are pending.

#### ***Response to Amendment***

2. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action.

The Objection to the Abstract is withdrawn in response to the Applicant's amendment to the Abstract.

#### ***Response to Arguments***

3. Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Title***

4. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: System and Method for Identifying Suppliers and Buyers and Scheduling a Market Based on Market Demand and Supply Data.

***Double Patenting***

5. Claims 1-19 of this application conflict with claims 20-46, respectively, of Application No. 11/489,330. 37 CFR 1.78(b) provides that when two or more applications filed by the same applicant contain conflicting claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention during pendency in more than one application. Applicant is required to either cancel the conflicting claims from all but one application or maintain a clear line of demarcation between the applications. See MPEP § 822.

Claims 1-19 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 20-46, respectively, of copending Application No. 11/489,330. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over PriceDrive.com features, capabilities and/or characteristics of PriceDrive being disclosed in at least the following references:

- I. Etensity Launches Innovative Wireless Solution for B2B Auto Exchange (August, 2000), herein after reference A;
- II. PriceDrive.com Web Pages (August/October 2000), herein after reference B;
- III. PriceDrive.com Web Pages (April, 2001), herein after reference C;
- IV. PriceDrive.com Web Pages (May, 2001), herein after reference D; and
- V. Hall et al., U.S. Patent Publication No. 2002/0194051, herein after reference '051.

Regarding Claims 1 and 11 PriceDrive teaches a system and method for creating a market for products purchased and sold by a plurality of buyers and suppliers (dealers; "The invention may optionally create *online trading communities*, provide real-time market information, as well as *access to a broader market of prospective buyers and sellers who are in need of the vehicles*. The invention may also allow *dealers to provide each other with any product for which they have a desire for, and notify each other if the product becomes*

*available.*”, reference: ‘051: emphasis added, Paragraph 008; Abstract, Paragraphs 0007-0008, 0032, 0034, 0042-0043):

- collecting inventory information on a recurring basis for each of a plurality of product classes from a plurality of dealers (suppliers, buyers), the inventory information including the amount (number) of the product/product classes that each of the plurality of dealers has in inventory (stock; reference: ‘051: Claims 3, 21-22; Paragraphs 0048-0049, 0055, 0062, 0087, 0090, 0095; Figure 7; (reference B: Paragraphs 1-2, 10-11, Page 7; reference C: Paragraphs 2, 4, Page 1; Page 4; Bullet 4, Page 6; reference D: Paragraph 1, Page 3; Paragraph 1, Page 5)

“The method of the invention comprises selecting the data from the dealers, processing the data, and *providing the processed data to the dealers* while maintaining confidentiality of individual data of each automotive dealer. The selecting of the data may include *collecting data indicating*, for example, *which vehicles are in demand*. The data for vehicles may include a vehicle's make, a number of a vehicle's make a dealer has in stock, a vehicle identification number, a vehicle's year, a vehicle's model, a vehicle's body style, a vehicle's color, a vehicle's mileage, a vehicle's retail asking price, a vehicle's transactions cost, a vehicle's reconditioning cost, a vehicle's age, a vehicle's selling price, a vehicle's gross profit, *an acquisition need of a vehicle*, *a selling need of a vehicle*, a vehicle's image, a vehicle's *turnover rate*, or an *aggregate* of any of the above-listed data.”, emphasis added, Paragraph 0007

For example, in the *used vehicles business, sharing vehicle data with other dealers provides each dealer the ability to identify which dealers in a region have an immediate need for vehicles* that they want to sell right away. For auto dealers, the ability to *find and purchase the most desirable and available used vehicles* as well as locate prospective retail customers in their region for specific vehicles give them a competitive financial advantage., emphasis added, Paragraph 0034

- establishing an inventory profile (data, information, etc.) for each of a plurality of dealers (sellers, retailers, stores, enterprises, etc.) of a product (reference: '051: ), the inventory profile including an optimal stocking level (inventory, target inventory level, target day supply) based on a (typical) sales rate for that dealer for that product (reference: '051: Claims 24-25, 58; Paragraph 0048; Figure 2, Elements 208, 220; Figure 4, Elements 406, 408; Figure 8, Elements 812, 814; Figures 6, 10-12; (reference B: Paragraphs 1-2, Page 7; reference C: Page 4; reference D:

- for each dealer determining a current individual dealer demand amount (buy list, action list, recommendation, add/decrease inventory) for one or more of the product classes (inventory; reference: '051: Claims 24-25; Paragraphs 0048-0049, 0055, 0062, 0087, 0094; Figures 17a-17b; reference C: Page 3; reference D: Paragraph 1, Page 3; reference '051: Paragraphs 0048-0052; Figures 2, 10, 18);

“The Recommendation 230 is a *number of vehicles 232* the web site *recommends the dealer to increase or decrease its retail inventory by*. This number of vehicles 232 is *based on a dealer-specific Target Day Supply 264* (the dealer-determined

number of days that it should take to sell the entire inventory given its historical sales data). In particular, the system *recommends the dealer to buy or sell its retail inventory by the number of vehicles 232 in order to meet its predetermined target retail inventory which matches the Target Day Supply 264*. The number of vehicles 232 is determined by subtracting the number of Retail 224 vehicles from the predetermined target retail inventory to achieve the Target Day Supply 264. “emphasis added, Paragraph 0048).

- determining aggregate (consolidated, market level, regional level, etc.) dealer demand for the product/product classes by combining the current individual dealer demand (reference D: Paragraph 4, Page 1; reference: '051: Claims 5, 6, 42, 43; Paragraphs 0007-0034, 0042-0044, 0051, 0088, 0090-0091, 0095);

“5. A method for networking dealers managing systems, comprising: *pooling data* from the dealers managing systems to produce *aggregate data* while maintaining confidentiality of individual data of each dealer; and *sharing the aggregate data among the dealers*; wherein the *dealers use the aggregate data* to benchmark the dealers' market situations and to better understand the dealers' marketplace.”, emphasis added, Claim 5

- determining if (sufficient) supply of the product exists by identifying potential suppliers (sellers, dealers, distributors, manufacturers, re-marketers, etc.; e.g. other dealers) of the product/product classes, with the ability to sell (market make) the product (reference: '051: 0042-0043; reference D: Paragraph 3, Page 3);



Art Unit: 3623

- determining an aggregate supply of the product by identifying potential product suppliers with the ability to sell the product (reference '051: Paragraphs 0087, 0094-0095; Figures 7, 17B);

- scheduling (setting up, making happen) a market (sale, auction, transaction, trade, swap, purchase, etc.) and or multiple markets for the product if the aggregate dealer demand is greater than zero and where (sufficient) supply exists (reference: '051: Paragraphs 0008, 0034, 0050-0051, 0095-0096; Figure 3, Element 320; reference B: Paragraph 4, Page 8; reference C: Paragraph 2, Page 1; reference D: Paragraph 1, Page 3; Paragraph 1, Page 4; Paragraph 1, Page 5; Paragraph 5, Page 11; Page 24); and

“The number of Hits 1716 indicates the total number of matching vehicles in the web site's database, including the dealership's vehicles. Moreover, the web site provides the dealership with information such as the *other dealers' needs and their locations, etc., in order for the dealership to complete its transaction*. The web site can also have the *dealership's Buy List* linked to a WAP device so the dealership *will always know when a vehicle it needs is available.*”, emphasis added, Paragraph 0095

- notifying (altering, communicating, messaging, calling, pushing, etc.) the dealers (buyers) having current individual demand for the product and the (potential) suppliers of the scheduled market (transaction, sale, auction, etc.; reference: '051: Claims 12, 33, 49, 60; Paragraphs 0041, 0095-0096; reference B: Paragraph 3, Page

Art Unit: 3623

2; reference C: Bullet 6, Page 6; reference D: Paragraph 1, Page 3; Paragraph 7, Page 11);

PriceDrive teaches a market system and method wherein the products including classes (types, categories, etc.) of products (cars, trucks, motorcycles, used, new, etc.; (reference C: Page 6; reference D: Paragraph 1, Page 2; Paragraph 1, Page 5; reference '051: Paragraphs 0008, 0034, 0057, 0090).

PriceDrive teaches a market method and system wherein the method steps are repeated on a periodic (scheduled, recurring, regular, etc.) basis (reference B: Paragraphs 1-2, Page 7; reference C: Bullet 4, Page 6; reference '051: Paragraphs 0042-0043).

PriceDrive teaches further teach the market system and method is conducted over a network (Figure 1; Paragraphs 0004-0006, 0035-0037).

PriceDrive teaches a market system and method further comprising determining if the supply for each of the determined product classes is equal to or greater than a respective threshold value (e.g. over aged, ROI, demand, inventory, costs, etc.), and scheduling a market for those determined product classes which exceed the supply threshold values (reference D: Paragraph 1, Page 4; reference '051: Paragraphs 0048, 0057-0058, 0061).

While PriceDrive teaches aggregating both supply and demand information from a plurality of dealers ("Also, dealers managing systems (DMS) of competitive dealers can be networked while maintaining confidentiality of individual data of each dealer. The web site

*aggregates data from the DMS's within its own system and provides the aggregate data in various market reports or other views to members.*", Paragraph 0042) . PriceDrive does not expressly teach for each of the product classes comparing the corresponding aggregate dealer demands to a *threshold set of values* for determining which product classes have demand exceeding their threshold values as claimed.

Official notice is taken the determining if there is enough demand by comparing demand to some threshold (minimum number, required level, etc.) and then scheduling a market (auction, transaction, exchange, etc.) if and when the demand warrants it (critical mass) is old and very well known (e.g. determining if the number of potential buyers is equal to or greater than a minimum number). Typically markets (auctions, retailers, sellers, etc.) makers either explicitly or implicitly know/understand the demand for their product and/or class of products and only schedule a market (sale, auction, bid, marketplace, exchange, trade, swap, etc.) if they know there is at least some minimum number of interested buyers, even if it is just one buyer. Otherwise scheduling a market when one knows there are no buyers for the product makes little sense.

Accordingly, it would have been obvious to one skilled in the art at the time of the invention that the market system and method as taught by PriceDrive with its ability to aggregate and disseminate both product demand and supply information in order to schedule one or more markets would have benefited from the common business practice of only scheduling a market (e.g. holding an auction) when at least one or more buyers expressed an interest in the products offered through the market (i.e. for each of

Art Unit: 3623

the product classes comparing the corresponding aggregate dealer demands to a *threshold set of values* for determining which product classes have demand exceeding their threshold values) in view of the teachings of official notice.

204 206 208 210 212 214 216

1/ 1/ 1/ 1/ 1/ 1/ 1/

To Do List Daily Reports Dealer Inventory Appraisal Activity Retail Showroom Wholesale Center Buy List

202 Welcome to Pricedrive

214 320

Wholesale Center (9 vehicles)

302 304 Dealership Vehicles | Market Vehicles 314

306 308 310 312

Year	Make	Model	Stock	Mileage	Color	# Bids	Best Buyer's
1996	DODGE	NEON-4	H3236B	128192	BLUE	0	Buyers
1994	CHRYSL	NEW YOR A	14514	97048	BROWN	0	Buyers
2000	MAZDA	MX-5 MI	P3241	8762	SILVER	0	Buyers
1999	FORD	CONTOURP	3245	32165	GREEN	0	Buyers
1996	FORD	T RANGER-	A14549	39840	BLACK	0	Buyers
1993	PONTIA	BONNEVI	H3262B	142332	BURGUNDY	0	Buyers
1986	BUICK	ELECTRA	A14505B	120461	SILVER	0	Buyers
1994	FORD	ESCORT-	H3278B	135980	RED	0	Buyers
1998	NISSAN	ALTIMA-	A14382	80511	BEIGE	0	Buyers

316

Figure 1: '051, Figure 3(a)

Art Unit: 3623

**Retail Sales Trends**

492      494      406      408

Make* [M17]	Model* [M17]	Metrics [M17]	Qty Sold Last 8 mo	Qty Sold Last 90 days	Qty Sold Last 60 days	Qty Sold Last 30 days	Current Stock
MAZDA	PROTEGE-4 CYL	826	72	50	38	29	10
	MPV-V6		28	17	15	7	8
	MILLENNIA-V6		21	16	11	6	1
	B SERIES PICKUP		17	11	8	7	3
	CONTOUR-4 CYL		7	3	3	3	1
FORD	GRAND CHEROKEE-4 CYL		5	4	2	2	0
JEEP	GRAND CHEROKEE-4 CYL		5	2	2	1	1
CHEVROLET	MALIBU-V6		3	2	2	0	0
MERCURY	SABLE-V6		3	2	2	1	0
TOYOTA	CAMRY		3	1	1	1	0
ACURA	TL-4 CYL		2	2	2	2	0
FORD	TAURUS-V6		2	1	1	0	0
FORD TRUCK	EXPLORER-V6		2	1	0	0	0
MAZDA	MX-5 MIATA-4 CYL		2	1	1	1	1
MITSUBISHI	GALANT-4 CYL		2	2	2	0	0
NISSAN/DATSUN	SENTRA-4 CYL		2	2	1	0	0
TOYOTA	COROLLA-4 CYL		2	1	1	0	0
BUICK	REGAL CUSTOM-V6		1	0	0	0	0
CHEVROLET	LUMINA-V6		1	0	0	0	0
CHEVROLET TRUCK	S10 PICKUP-V6		1	1	1	1	0
CHRYSLER	300M-V6		1	0	0	0	0
	CIRRUS		1	1	0	0	0
HONDA	ACCORD		1	0	0	0	0
	PASSPORT-V6		1	1	0	0	0
HYUNDAI	TIERRA-4 CYL		1	0	0	0	0
JEEP	GRAND CHEROKEE-V6		1	1	0	0	0
MAZDA	B4000 PICKUP-V6		1	0	0	0	0
	TRIBUTE		1	1	1	0	0
MERCURY	MYSTIQUE-4 CYL		1	0	0	0	0
MITSUBISHI	MIRAGE-4 CYL		1	0	0	0	0
NISSAN/DATSUN	MAXIMA-V6		1	0	0	0	2

Figure 2: '051, Figure 4

Art Unit: 3623

Vehicles to Watch

614 616 618 620 612 602 (Rows: 10 Columns: 4) 624 626

Stock Number	Year	Make	Model	Warning	Metrics	Days in Stock	Avg Days in Stock	Avg Gross Profit	Avg ROI
A14591	1999	VOLKSWAGEN	NEW BEETLE-4 CYL.	No History Available	604	17	N/A	N/A	N/A
A14414	1998	SUBARU	FORESTER-4 CYL.	No History Available		18	N/A	N/A	N/A
P3292	2000	FORD	FOCUS-4 CYL.	No History Available		0	N/A	N/A	N/A
H3279	1999	MAZDA	B2500 PICKUP-4 CYL.	No History Available		6	N/A	N/A	N/A
H3217B	1993	FORD	ESCORT	No History Available		1	N/A	N/A	N/A
H3286	1998	NISSAN/DATSUN	MAXIMA-V6	Below Minimum ROI	606	0	44	\$ 355	19%
H3289	1998	NISSAN/DATSUN	MAXIMA-V6	Below Minimum ROI		0	44	\$ 355	19%
P3241	2000	MAZDA	MX-5 MIATA-4 CYL.	Add Description   Over Age - Wholesale	608 610	64	33	N/A	31%
H3283	1997	MAZDA	MX-5 MIATA-4 CYL.	Below Minimum ROI		6	33	N/A	31%
P3245	1999	FORD	CONTOUR-4 CYL.	Add Description   Over Age - Wholesale		50	18	\$ 1,548	N/A

Figure 3: '051, Figure 6

Art Unit: 3623



802 Stock	804 Year	806 Make	808 Model	810 Mileage	812 Current Days In Stock	814 Avg. Gross Profit	816 Avg. ROI %	818 Warning	820 Move to WC?
H3217B	1993	FORD	ESCORT		1	N/A	N/A	No History Available	<input type="checkbox"/>
P3292	2000	FORD	FOCUS-4 CYL.	4900	0	N/A	N/A	No History Available	<input type="checkbox"/>
H3298	1998	NISSAN/DATSUN	MAXIMA-V6	35966	0	\$355	19%	Below Minimum ROI	<input type="checkbox"/>
H3299	1998	NISSAN/DATSUN	MAXIMA-V6	30910	0	\$355	19%	Below Minimum ROI	<input type="checkbox"/>
H3278	1999	MAZDA	B2500 PICKUP-4 CYL.	31762	6	N/A	N/A	No History Available	<input type="checkbox"/>
H3283	1997	MAZDA	MX-5 MIATA-4 CYL.	34923	6	N/A	31%	Below Minimum ROI	<input type="checkbox"/>
A14414	1998	SUBARU	FORESTER- 4 CYL.	62403	18	N/A	N/A	No History Available	<input type="checkbox"/>
A14581	1988	VOLKSWAGEN	NEW BEETLE-4 CYL.	17806	17	N/A	N/A	No History Available	<input type="checkbox"/>

Total vehicles = 8



800

Figure 4: '051, Figure 8

Art Unit: 3623

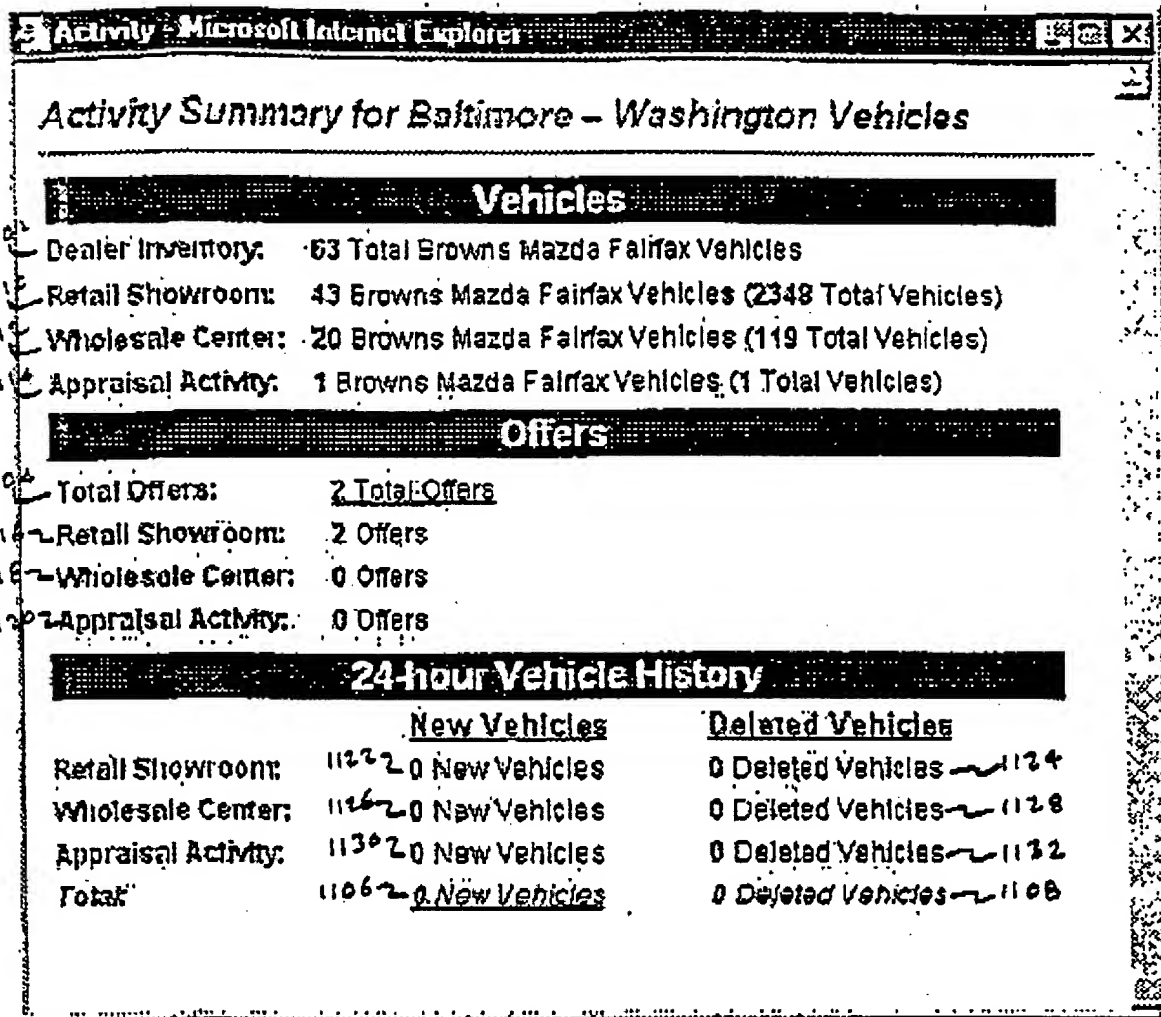


Figure 5: '051, Figure 11



Art Unit: 3623

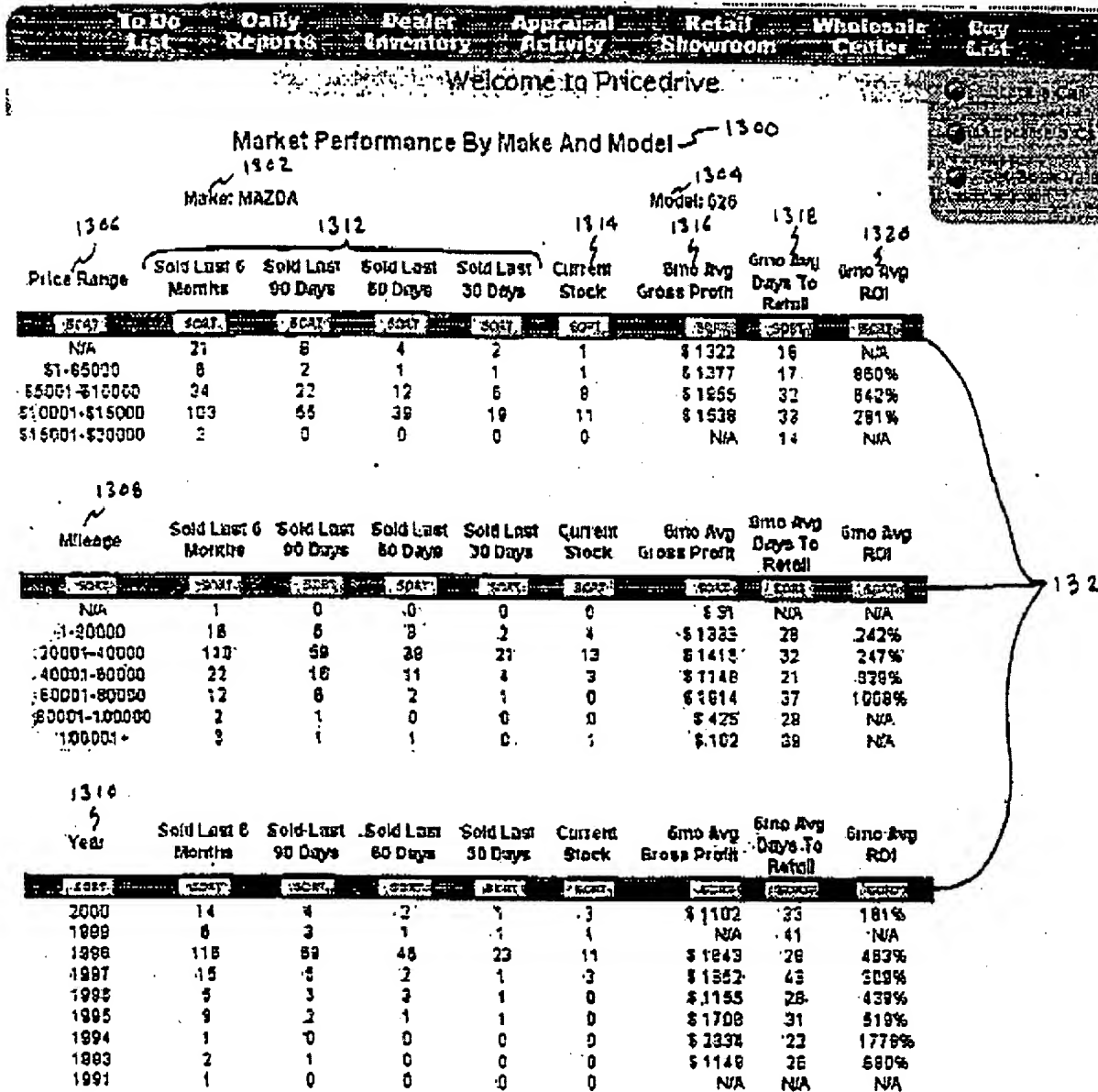


Figure 6: '051, Figure 13

Art Unit: 3623

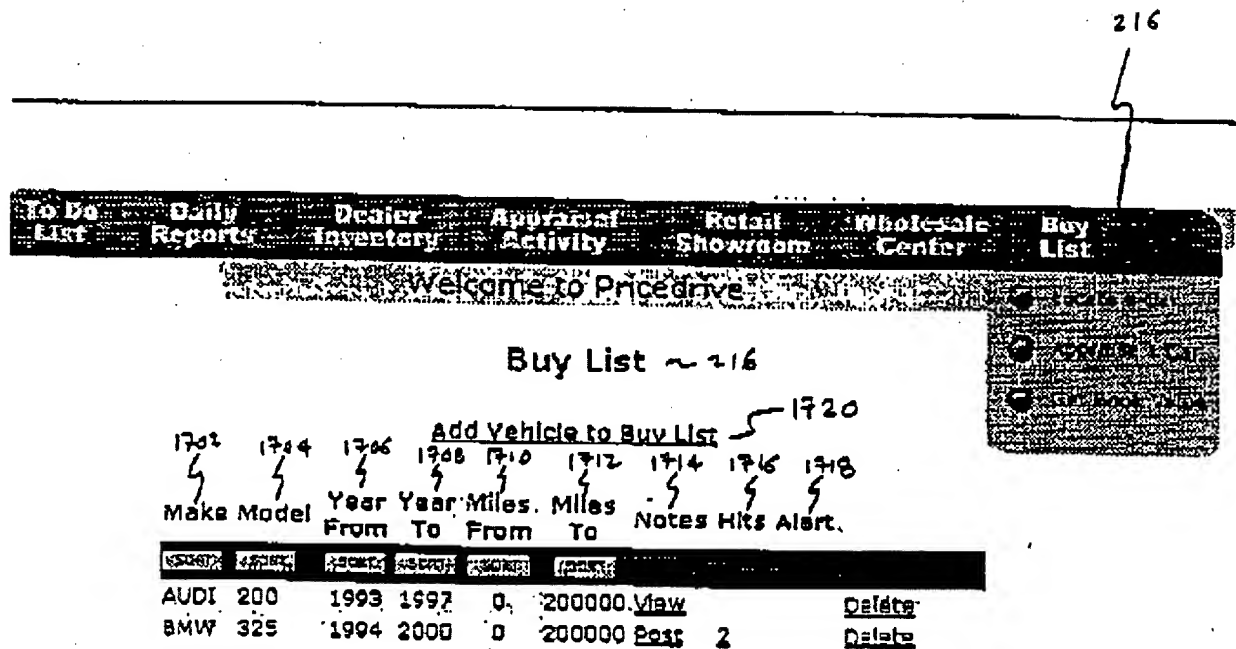


Figure 7: '051, Figure 17(a)

Regarding Claim 2 PriceDrive teaches a system and method for marketing products further comprising comparing the supply for each of the determined product classes to a respective threshold value (e.g. overaged, ROI, demand, inventory, costs, etc.), wherein designating a market comprising designating a market for those determined product classes which exceed the supply threshold values (reference D: Paragraph 1, Page 4; reference '051: Paragraphs 0048, 0057-0058, 0061).

Regarding Claims 3 and 12 PriceDrive teaches a system and method for marketing products further comprising designating a plurality of markets (sales, communities, trades, auction, etc.) for each of the product classes (reference C: Page

6; reference D: Paragraph 1, Page 2; Paragraph 1, Page 5; reference '051: Paragraphs 0008, 0034, 0057, 0090).

Regarding Claims 4 and 13 PriceDrive teaches a system and method for marketing products further comprising offer the units of the supply of product for each of the designated market to the dealers who have demand for the corresponding product class (reference C: Pages 4, 6; reference '051: Paragraphs 0007-0008, 0087).

Regarding Claims 5 and 14 PriceDrive teaches a system and method for marketing products wherein the inventory profile is defined by the corresponding dealer (reference D: Paragraph 1, Page 5; reference '051: Paragraphs 0053, 0055, 0082, 0094; Figure 17a).

Regarding Claims 6 and 15 PriceDrive teaches a system and method for marketing products wherein the inventory profile is based on a sales history of the corresponding dealer (reference B: Paragraphs 1-2, Page 7; reference C: Page 4; reference '051: Claim 24; Paragraphs 0007, 0042-0043, 0048, 0082).

"24. A method of claim 22, wherein the number of current day supply of vehicles is a number of days it takes a dealership to sell its inventory based on at least one of the *dealership's sales history*, the *dealership's current inventory*, the *dealership's supply of vehicles*, or an amount of money that is tied up in the dealership's inventory.", emphasis added, Claim 24

Regarding Claims 7 and 19 PriceDrive teaches a system and method for marketing products further comprising collecting the inventory information on a periodic (scheduled, recurring, regular, etc.) basis (reference B: Paragraphs 1-2, Page 7; reference C: Bullet 4, Page 6; reference '051: Paragraphs 0042-0043).

Regarding Claims 8 and 16 PriceDrive teaches a system and method for marketing products wherein suppliers includes dealers who have products in inventory which the dealer has deemed to be for sale at wholesale (reference B: Paragraphs 10-11, Page 7; reference C: Page 1; reference D: Paragraph 1, Page 3; Paragraph 1, Page 5; reference '051: Paragraphs 0051, 0053, 0056-0057; Figures 3a-3c).

Regarding Claims 9 and 17 PriceDrive teaches a system and method for marketing products wherein the products are used automobiles (reference A: Page 1; reference B: Page 1; reference C: Pages 1, 3-5; reference: '051: Abstract; Paragraphs 0007-0008).

Regarding Claims 10 and 18 PriceDrive teaches a system and method for marketing products wherein the suppliers include automobile lease companies (reference: '051: Paragraph 0007).

**Conclusion**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Fisher et al., U.S. Patent No. 5,835,896, an online market for a plurality of products purchased and sold by a plurality of dealers (suppliers, vendors, etc.).
- Ettl et al., U.S. Patent No. 5,946,662, teach a market system and method for optimizing product inventory levels in a network of dealers (distributors, suppliers, retailers) based on product fill rates (sales).

Art Unit: 3623

- Feigin et al., U.S. Patent No. 6,006,196, teach a system and method for optimizing inventory levels amongst a plurality of dealers by estimating future demand (replenishment requirements).

- Green et al., U.S. Patent NO. 6,041,310, teach a system and method for collecting and analyzing automotive dealership inventory data in order to schedule a market between a buyer and a supplier.

- Luke et al., U.S. Patent No. 6,131,087, teach a business-to-business marketplace for scheduling markets between a plurality of buyers and sellers comprising automated supplier inventory tracking and replenishment, real-time auctions, and matching product buyers and suppliers based on multiple parameters/requirements.

- Pallakoff, U.S. Patent No. 6,269,343, teach a online market making system and method for aggregating (consolidating) demand and scheduling a market when the aggregated demand is equal to or greater than a demand threshold.

- Van Horn et al., U.S. Patent 6,631,356, teach a demand aggregation market making system and method for scheduling markets based on aggregated product demand from a plurality of individual buyers.

- Untiedt et al., U.S. Patent No. 7,216,096, teach a dealer-to-dealer product inventory management and market making system and method for vehicle products (parts) wherein the system/method schedules demand-driven markets (transactions, sales, trades, etc.) of product inventory amongst a plurality of dealers (dealers being both suppliers and buyers) based on individual and aggregated product inventory supply and demand information.

- Yang et al., U.S. Patent Publication No. 2001/0034673, teach an online business-to-business market making system and method comprising: determining optimal/target product stock/inventory levels and locations, identifying excess product inventory based on dealer inventory profile information, providing product inventory visibility amongst a plurality of dealers, scheduling markets based on aggregated demand and supply data (e.g. moving identified excess product inventory from one dealer to another dealer).

- Schmidt, U.S. Patent Publication No. 2001/0047323, teach a market system and method for scheduling a market(s) by matching a plurality of buyer's demand and sellers supply.

- Solomon, U.S. Patent Publication No. 2002/0023042, teach a demand-driven market scheduling system and method wherein aggregated buyer inventory information (wants) are matched against supplier inventory information in order to schedule a market.

- Bennett et al., U.S. Patent Publication No. 2002/0103715, teach system and method for facilitating markets between a plurality of dealers.

- Mok et al., U.S. Patent Publication No. 2002/0138166, teach a business-to-business market maker system and method for scheduling markets between a plurality of suppliers and buyers.

- Holland et al., U.S. Patent Publication No. 2002/0143605, teach a system and method generating a market between product buyers and sellers wherein product

demand is tracked for a plurality of product classes, demand and supply data is aggregated and inventory is tracked.

- Neumayer, U.S. Patent Publication No. 2002/0169679, teach a market making system and method for aggregating buyer product demand in order to facilitate markets between buyers and sellers.

- Jones, U.S. Patent Publication No. 2003/0065591, teach a demand aggregation for distributing aggregated product demand data to a plurality of suppliers capable of supplying the demanded product.

- Livesay, U.S. Patent Publication No. 2005/01494410, teach a demand/buyer driven online marketplace for matching product buyers and sellers.

- WO 02/07053 A2, teaches a system and method for scheduling markets for a plurality of buyers and sellers of products, goods and services wherein the system identifies actual demand and project excess demand and identifiers suppliers (dealers, vendors) to match those demands.

- JP11025164A, teaches a system and method for scheduling markets between sellers (dealers) and buyers.

- Manheim Auctions Launches Dealership Management System for Independent Used Car Dealers Nationwide with Tracker Plus (1998), teaches a commercially available system and method for making markets between a plurality of dealers, acting both as sellers and buyers, wherein the system/method track vehicle inventories, enable dealers to distribute/share vehicle inventory data as well as enable dealers to participate in auctions.



Art Unit: 3623

- J.D. Power and Associates Reports: Automotive Retailer Dah Chong Hong U.S.A. Enrolls in Power Information Network (1998), teaches a commercially available system and method for aggregating and analyzing dealership vehicle data to assist dealers in improving such things as inventory allocation.

- Lief et al., Net Marketplaces Grow Up (1999), teaches the well known utilization of network market maker systems, methods and companies to create business-to-business e-business/e-commerce marketplaces wherein buyers and sellers are brought together to form trading communities. Lief et al. further teach the importance of reaching "critical mass", a threshold number of buyers and/or sellers, in order to make the markets work.

- Kafka et al., B2B Auctions Go Beyond Price (2000), teaches the well known formation of network markets, between a plurality of buyers and sellers, to do such things as "offload excess and user inventory."

- Used Cards, New Models (2000), teaches Manheim Auctions online dealer-to-dealer marketplace for used cars wherein dealers can search/view nationwide auction inventory, determine prices based on actual sales for a particular product class and participate in a market.

- Sowa, High-tech auto-broker hits bump (2000), teaches an online dealer-to-dealer marketplace (Dealerswap) for facilitating markets between a plurality of used car buyer and sellers (dealers).

- The Cobalt Group and GE Capital AFS Forge Alliance to Launch Wholesale Used Vehicle Exchange (2000) teaches an online system and method for facilitating

Art Unit: 3623

markets between vehicle dealers based on GE's wholesale distribution system/method (GEAutoDirect.com) wherein lessors can make their cars available to dealers throughout the country.

- The Cobalt Groups Newly Enhanced MotorPlace.com Portal is the Auto Industry's Only Full-Service Online Resource for Dealers (2001), teaches an online net market place for facilitating dealer-to-dealer transactions (markets; MotorPlace Auto Exchange).

- The Cobalt Group's MotorPlace Auto Exchange Launches All New Version of Wholesale Used Vehicle Exchange (2001), teaches a commercially available system and method for remarketing used vehicles wherein buyers and sellers are matched based on a plurality of dealer information including but not limited to aggregated inventory information.

- MotorPoace.com Brochure (2001) teaches an online marketplace for facilitating used car dealer-to-dealer transactions.

- How the Internet is Revolutionizing America's Used-Car Industry (2001), teaches how the Internet is "transforming long established practices of vehicle remarketing" wherein traditional physical auction transactions are being moved to the virtual domain through aggregating supply and demand data (e.g. aggregating dealership inventory data which enable dealers, both sellers and buyers, to reach a "broader demand based distributed over a wider geographic region"). The article further teaches several well-known dealer-to-dealer marketplaces including Cobalt and GE's Motorplace Auto Exchange, Autodaq, Manheim Auctions and AutoTradeCenter as well

Art Unit: 3623

as the need to have a threshold/minimum number of both buyers and sellers participating in the marketplace ("...they must aggregate inventory online from suppliers in order to build eyeball count of purchasing dealers").

- Building the B2B Foundation (2001), teaches a plurality of "Net Market Makers" who are taking traditional business models and moving them to the Internet.

Additionally the article teaches that critical mass, a threshold/minimum number of both buyers and sellers, is a well known key success factor for these Net Market Makers.

- The e-Marketplace Revolution (2001), teaches the known utilization of business-to-business e-marketplaces (exchanges, portals, vortals, etc.) in facilitating value creation through four primary strategies: aggregating spend, market transparency (visibility), transaction automation and disintermediation.


- Power Information Network (powerinfonet.com) Web Pages (1999-2000, 2001) teaches a publicly available system and method for scheduling markets between a plurality of buyers and sellers (dealers) wherein the system/method aggregates, analyzes and disseminates a plurality of vehicle inventory, sales and demand data.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott L. Jarrett whose telephone number is (571) 272-7033. The examiner can normally be reached on Monday-Friday, 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hafiz Tariq can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3623

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Scott Jarrett  
Asst. Examiner  
June 12, 2007



TARIQ R. HAFIZ  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600